

REMARKS/ARGUMENTS

In the Specification:

The disclosure stands objected to because in paragraph [0034] reference character "64" has been used to designate both the "threaded rod" and the "second end" of the threaded rod.

In order to cure this discrepancy, Paragraph [0034] is amended herein to re-designate the "second end" with reference number "65." Reference number "64" will continue to designate the "threaded rod".

In the Drawings:

As discussed immediately above, to cure the reference number discrepancies noted in the Specification, Paragraphs [0034] is amended to re-designate the "second end" of threaded rod 64 with reference number "65." Therefore, Figure 9 is amended herein to add the reference number "65" to designate the "second end" of threaded rod 64.

In the Claims:

Rejections under 35 U.S.C. §102 (b)

Claims 1-9, 13, and 14 stand rejected under 35 U.S.C. §102(b) as being anticipated by US Pat. No. 3,431,686 to Bergler (hereinafter "Bergler '686"). According to the Examiner, Bergler '686 discloses a sanding frame for a portable sander, which frame has a base 9 and "a leg 42 selectively connectable to the base 9 for supporting the base 9 in an orientation wherein the plane of the base 9 is planer parallel to the ground" (emphasis added). The Applicants respectfully disagree and traverse the rejection.

Leg 42 in Bergler '686 is not selectively connectable to base 9. Bergler '686 relates to a hand operated belt sander and a guide frame. The sander housing 1 can be assembled onto the guide frame 9 so as to enclose the rollers 6, 7 and the pressure plate 8. Col. 2 lines 46-51. An alternative embodiment of the guide frame 9 is

depicted in Figs. 8 and 9. See the description of the drawings at Col. 2 lines 35-39. According to Bergler, this alternative embodiment 9a of the guide frame 9 is adapted so that it can be used for grinding rebates or floor corners. Col. 4 lines 34-36. To permit the edge 43 of the sander belt 5 to reach said corners, one long side (no reference number, see “b” in Figs. 2-3) of the rectangular frame is altered by creating and raising a side rail 45 to a height “h” on upright frame legs 42 and horizontal bent legs 44. Col. 4 lines 37-40 and Figs. 8 and 9. Thus, on the side with the raised side rail 45, the edge 43 of belt 5 can be moved right up against a vertical projection of not greater than height *h*. *Compare* the right hand side of Fig. 9 to the right hand side of Fig. 2 where the side of the frame 9 is on the same plane as the lower surface of belt 5.

“Legs” 42 and 44 of Bergler ‘686 are, however, permanent components of alternative guide frame 9a. They are not “selectively connectable to the base for supporting the base” [emphasis added] as required by independent Claims 1 and 2 of the present application.

The presence of “legs” 42 and 44 in the Figs. 8 and 9 embodiment of Bergler ‘686 do not alter the orientation of the sander 1. The abrasive surface of belt 5 of Bergler ‘686 remains facing the ground/floor. *See* Figs. 8 and 9. The “legs” do not “support the base in an orientation where the abrasive surface of the [of the sander] is exposed for access by a user”, as required by independent Claims 1, 13, and 14 of the present application.

Nor is there described or depicted any step of “attaching the leg to the sander frame” as part of “a method for converting a sanding frame into a stand” as required by independent Claim 13.

Inherency:

Contrary to the Examiner’s assertion that “Bergler also inherently discloses a method for converting a sanding frame into a stand for a portable sander”, there is no teaching or suggestion in Bergler ‘686 that “legs” 42 and 44 are or might be selectably

attachable to the frame 9. As noted above, Bergler's legs 42 and 44 are disclosed as permanent parts of frame 9a. Therefore the Applicants respectfully ask, in what way is it inherent in Bergler '686 that there is a step of "attaching the leg 42 to the sanding frame 9"?

Moreover, the purpose and function of Bergler's Figures 8 and 9 embodiment, which serves solely as a sander frame, does not suggest any reason for changing the disclosed permanent "legs" into attachable (and detachable) legs. *See* Col. 4 at lines 34-44. In fact, the undersigned can not find in Bergler '686 any express mention of a sander stand for holding the abrasive surface of the sander so as to be exposed for access by the user, to say nothing of any teaching or suggestion about converting a sander frame into a sander stand with attachable legs. A "retrospective view of inherency is not a substitute for some teaching or suggestion which supports the selection and use of the various elements in the particular claimed combination." In Re Newell, 13 USPQ2d, 1248 (Fed. Cir. 1989).

For the reasons given above, the Applicants respectfully submit that Bergler '686 does not anticipate independent claims 1, 2, 13, and 14 of the present application. As the independent claims are not anticipated and are allowable over Bergler '686, dependent claims 3-9, which are dependent from Claim 2, are also allowable and will not be addressed further. Reconsideration and withdrawal of the rejection is respectfully requested.

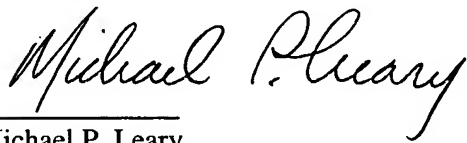
Indication of Allowable Subject Matter:

The Examiner indicated that Claims 10 -12 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicants wish to thank the Examiner for the indication of allowable subject matter. For the reasons given above, however, the Applicants believe that all the claims are allowable over the cited prior art and, for the present time, respectfully decline to adopt the suggested claim amendments.

Appl. No. 10/684,870
Amdt. dated October 1, 2004
Reply to Office Action dated June 29, 2004

The Applicants wish to thank the Examiner for the consideration shown to the Application, and believe that the Application is now in condition for allowance. The Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted

A handwritten signature in black ink that reads "Michael P. Leary". The signature is written in a cursive style with a horizontal line underneath the name.

Michael P. Leary
Registration No. 41,144
Attorney for Applicant(s)
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Michael Leary - TW199
The Black & Decker Corporation
701 East Joppa Road
Towson, Maryland 21286
Telephone: (410) 716-2773

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Amendments to the Drawings:

Please cancel/delete the original sheet which includes original Figure 9.

The attached sheet replaces the original sheet including Figure 9. In this amended Figure 9 the reference number "65" has been added to designate the "second end" of threaded rod 64.

Attachment: 1 Replacement Sheet of Drawings
1 Annotated Sheet Showing Changes From The Original.

